

REMARKS

The Office has required restriction in the present application as follows:

Group I: Claims 46-51, 53-70 and 116-117, drawn to a process for preparing aromatic hydrocarbons; and

Group II: Claims 71-115, drawn to a catalyst composition.

Applicants elect, with traverse, Group I, Claims 46-51, 53-70 and 116-117.

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the Examiner if restriction is not required. (M.P.E.P. § 803). The burden of proof is on the Examiner to provide reasons and/or examples, to support any conclusion in regard to patentable distinctions. (M.P.E.P. § 803). Applicants respectfully traverse the restriction requirement on the grounds that the Examiner has not carried the burden of providing sufficient reasons and/or examples to support any conclusion that the claims of the restricted groups are patentably distinct.

The Examiner has categorized the relationships between Groups I and II as product and process of use. Patentable distinctness may be shown if either or both of the following can be shown: (A) that the process of using the product as claimed can be practice with another materially different product or (B) that the product as claimed can be used in a materially different process of using that product (M.P.E.P. § 806.05(h)). The Examiner asserts that the product as claimed can be used in a materially different process, such as a catalyst for the reduction of nitrogen oxides.

However, the Examiner's assertion does not meet the requirements under § 806.05(h), because a mere generalization concerning the use of a different process is not evidence that the claimed catalyst can be used in a materially different process. Applicants have found that the present catalyst system produces "...higher levels of selectivity..." (page 4, line 25 to

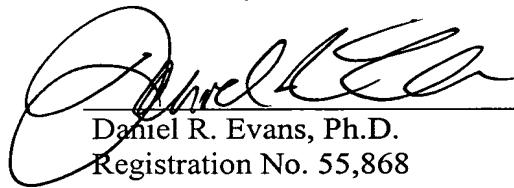
page 5, line 1) in the aromatization of C₃-C₆ light hydrocarbons. Also, their catalysts "...present a greater resistance to deactivation..." (page 5, lines 3-4) which increases the life of the catalyst. Therefore, the Examiner's reasoning is merely a restatement of the Examiner's conclusion that the two groups are patentably distinct, which is believed to be improper.

Accordingly, for at least the reasons presented above, Applicants submit that the Examiner has failed to meet the burden necessary to sustain the restriction requirement. Withdrawal of the requirement is respectfully requested.

Applicant submits this application is now in condition for examination on the merits and early notification of such action is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Norman F. Oblon



Daniel R. Evans, Ph.D.
Registration No. 55,868

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)

aps